



Proposed Lobbying Transparency (Scotland) Bill

**The UNISON Scotland submission to the Consultation on Neil Findlay
MSP's Proposed Lobbying Transparency (Scotland) Bill**

October 2012

UNISON is the largest union in Scotland's public services representing over 160,000 people. Our members work in the public sector, for private contractors providing public services and in voluntary sector organisations. They include frontline staff and managers, in local authorities, the NHS, the police service, schools, further and higher education, water, energy, transport and the voluntary sector. We welcome this opportunity to comment on the proposed Lobbying transparency bill.

UNISON Scotland works to support public services and those who deliver them. We see engagement with Parliament and Government as part of this. Much of this work is either part of the normal round of industrial relations (negotiations over terms and conditions for example) or participation in the parliamentary process (response to consultations or giving evidence etc). We do not believe, and are pleased that the consultation makes clear that this Bill does not consider, these activities to constitute lobbying.

UNISON does however lobby. During, for example, the passage of a particular piece of legislation through Parliament we may encourage MSPs to table amendments or to support/ oppose parts of a Bill. We lobby on our own behalf or as the occasion demands as part of wider coalitions (eg the STUC or Stop Climate Chaos Scotland).

We are happy that our own lobbying efforts are transparent and we have no difficulty with the nature and extent our lobbying activities being open to general scrutiny. We have a long track record in arguing for openness and transparency in decision making and see this Bill as fully in tune with that position.

Our response to the specific questions asked in the consultation follow

1. Do you support the general aim of the proposed Bill? Please indicate "yes/no/undecided" and explain the reasons for your response.

We are fully supportive of the general aim of the Bill. As an organisation which does lobby on behalf of our members and their interests we have no problems with the idea of a register. Being able to lobby elected representatives is an important principle to be upheld. But so is transparency.

2. Do you agree that legislation is a necessary and appropriate means of improving lobbying transparency?

Yes. We do not believe that self regulation can provide a degree of assurance necessary for there to be confidence in the system.

3. Is there any specific international approach to the regulation of lobbyists that represents a good model for developing an approach appropriate for Scotland?

We would be wary of the wholesale importation of a model from elsewhere as these will reflect their own local conditions and culture. The principles for disclosure contained in the House of Commons Public Administration Select Committee Report on Lobbying (2009) which urge disclosure of;

- Names of staff involved in lobbying activity
- Descriptive information about the company or organisation, for example the number of employees;
- Identity of clients;
- Where appropriate, specific information on the subject matters lobbied, for example, naming the Bill;
- Details of expenditure in relation to individual lobbying projects;
- Details of fees received in relation to individual lobbying projects;
- Details of Public Officials/ representatives contacted;
- The communication techniques used.

Are a good starting point.

4. What robust, comprehensive and sufficiently explicit definitions of lobbying and lobbyist can be developed and applied that will ensure all who lobby are captured under the proposals?

Following the Alliance for Lobbying Transparency, we are happy with the definition of a lobbyist as someone who is either a paid employee or is paid by a client, or receives other compensation, to undertake “lobbying activity”. We would concur with a definition of lobbying as Communication with Public officials (elected or appointed) regarding: The formulation, amendment, or adoption of legislation; The formulation, modification, or adoption of regulation, policy, or position of Government policy The awarding of any contract, grant or other financial benefit by or on behalf of the Scottish Government

5. Who should register on a lobbying register in Scotland?

The register should include organisations which engage in lobbying – the entry on the register should include the names of staff who spend a significant amount of their time lobbying

6. Is it necessary or desirable to develop a Code of Conduct for lobbyists to accompany a lobbying register? If so, what key elements should this code include?

Yes. Whilst certain practices will be required / proscribed by the legislation , it will be essential that a code of conduct which , whilst not a full statement of the law, seeks to outline in a easy to understand way which behaviours are/ are not acceptable is produced .

7. Are the current arrangements, whereby lobbyists are governed only through self-regulatory schemes, adequate or is a statutory regime required in order to regulate lobbying?

Self regulation is not appropriate. In our view a statutory regime is appropriate.

8. What do you think is the appropriate and necessary information to be disclosed in order to make lobbying transparent and how regularly should entries be updated?

We would suggest a register contain

- The names of those lobbying,
- Who they are lobbying on behalf of
- The organisation lobbying;
- Name of individual lobbyist(s);
- Information on any public office held by the lobbyist in the past five years
- Public body being lobbied;
- Name of public official with whom contact has been made (senior civil servant and above);
- Summary of what is being lobbied on, whether legislation, regulation or policy, or government contract or grant;
- Amount of money spent on lobbying (a good faith estimate).

We would expect any information to be updated at least quarterly.

9. Should there be a threshold for inclusion in the lobbying register? If so, what should it be (in terms of time / resources devoted to lobbying, size of organisation, budget, etc.)?

We would support the Alliance for Lobbying transparency suggestion that Consultant lobbyists receiving income of £2000 or more from a particular client for “lobbying activity” over a 6 month period; (or if a group of companies agree to employ several lobbyists for similar work each at under £2000 but the total exceeds £2000).

In-house lobbyist: If the company or organisation spends a total of £9,000 or more on “lobbying activity” over a 6 month period; (If a group of companies each agree to spend less than £9,000 on lobbying activity of a similar nature but the total exceeds £9,000 over a six month period).

We also think an organisation of any size with staff who spend a significant amount (20% or more) of their time lobbying should be on the register

10. Should it only be contact with MSPs, Ministers and civil servants which should require to be recorded on the register, or should all public officials, including from NDPB’s, be included?

If lobbying is being construed as an attempt to influence public policy then contact with those who may be in a position to influence public policy, and this certainly includes senior officials in NDPB’s, should be included.

11. Which organisations should be exempted from registering and why should they be exempted?

Small organisations and businesses for whom registering might prove unduly onerous should not have to register. (The obvious exception to this being small organisations and businesses for whom lobbying is a central business activity or function). Outwith this, we see very few grounds for any organisation or business engaged in lobbying not to have to register.

12. Is an independent body required to oversee the register? If so, which organisation should be responsible for administering the register?

We would support the idea of an independent body overseeing the register.

We also agree that there is no need to set up an extra body, the Scottish Information Commissioner (SIC), or Standards Commissioner for Scotland would be suitable as registrar and administrator.

13. How will compliance be policed and what investigative and enforcement powers would the overseeing body require?

The body maintaining the register (should also deal with complaints. Bodies on the register should be given a reasonable period to respond to any complaint and/or correct information before any other action is taken. Complaints and investigations should include failure to register, late registration as well as insufficient or defective filing. Sufficient resources should be given to the monitoring body to carry out full investigations

14. How should the administration of a statutory register be paid for? And what is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

The purpose of the register is to encourage engagement through transparency – any aspect which deters people, organisations or businesses from making representations to Parliament or Government would be counterproductive. We believe that there should be no cost attached to registration. Any suggestion of a cost would be liable to being , deliberately, misconstrued by those hostile to the concept of a register, as people having to pay to access their democratic rights. We do not believe that the cost of establishing and maintaining a register would be great , and would be, not so much a cost to the public purse as an investment in integrity.

15. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

Insofar as it will prevent the covert use of money and influence the Bill is likely to have only a positive implication for equality.

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